



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,761	11/16/2001	Claire Svetlana Vishik	8285/476	1851

757 7590 08/12/2005

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

EXAMINER

MARTIN, CIARA A

ART UNIT	PAPER NUMBER
----------	--------------

2157

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/990,761	VISHIK ET AL.	
	Examiner	Art Unit	
	Ciara Martin	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 16 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/16/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the amendment filed on Jun 16, 2005. Claims 1-30 are pending. Claims 1-30 represent a method and system for intelligent routing based on presence detection.

Specification

2. The use of the trademarks AOL®, Yahoo!® and MSN® has been noted in this application. Trademarks should be capitalized wherever they appear and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neil et al. U.S. Patent No. 6,263,064 B1 in view of McDowell et al. U.S. Patent Application Publication No. 2002/0035605 A1.

O'Neil teaches the invention substantially as claimed including a communications control center for subscribers of a unified messaging system using a web server in a data-centric network (see abstract).

As per claim 1, O'Neil teaches a method comprising:

- a. receiving a message which is to be routed using a web server to one of a plurality of authorized parties comprising a first authorized party and a second authorized party (see column 8 lines 1-21, column 11 lines 8-29, fig. 1; O'Neil discloses routing incoming messages to more than one subscriber, a subscriber is an authorized party).
- b. polling the Web service at least once (see column 11 lines 22-29; O'Neil discloses periodically checking the queue for outgoing messages stored in the web server, checking the queue involves polling the queue in the web server);
- c. a first and second authorized party (see column 8 lines 1-21; O'Neil discloses more than one subscriber, a subscriber is an authorized party); and
- d. routing the message to an active communication device associated with the second authorized party (see column 8 lines 1-21; O'Neil discloses routing incoming messages to more than one subscriber, a subscriber is an authorized party).

O'Neil fails to teach:

- a. detect presence of a first and second authorized party
- b. determining that the presence of the first authorized party remains undetected over an allocated time interval;

However, McDowell teaches a system which includes determining the presence of a device using a presence server (see abstract, fig. 1). McDowell teaches pulling presence information of a party from the presence server, after not detecting the presence then polling the presence server again to detect the presence of another party and then routing the message to the second party (see paragraphs 0045, 0048, 0050-0051, 0056; McDowell discloses a presence server that determines whether a device is on or off before sending a message to the device, it is obvious a device must be associated with a party and present in order to receive messages, pulling information involves polling a device first).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server in order to detect after a specified period of time whether or not a device and subscribers are present before sending a message because this would prevent unnecessarily sending a message to a device or subscriber when it would not be received, a subscriber is an authorized party.

As per claim 2, O'Neil teaches the method as claimed in claim 1 wherein the message comprises a request, the first authorized party is a main approver of the request, and the second authorized party is a secondary approver of the request (see column 8 lines 1-21, column 11 lines 8-29; O'Neil discloses message requests which are routed from the web server to other servers to be send to subscribers, it is obvious that a single message can be sent to more than one subscriber).

As per claim 3, O'Neil teaches the method as claimed in claim 1 wherein a Web service and a plurality of different communication devices associated with the first and second authorized parties (see column 13 lines 8-39, fig. 1; O'Neil discloses a web server and communication devices of each subscriber such as pagers, telephone, voicemail, and computer capable of receiving email).

O'Neil fails to teach detecting the presence of the authorized parties by the Web service. However, McDowell teaches a system which includes presence determination of a device using a presence server (see paragraphs 0045, 0048, 0050-0051, 0056; McDowell discloses a presence server that determines whether a device is on or off).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server because this would detect the presence of any number of subscribers using different devices and prevent unnecessarily sending a message to a device or subscriber when it would not be received, a subscriber is an authorized party.

As per claim 4, O'Neil teaches the method as claimed in claim 1 wherein the first and second authorized parties might log in to a particular device and software application (see column 8 lines 22-30; O'Neil discloses the possibility of employing authentication for subscribers; authentication involves logging in to a device or software application).

O'Neil fails to teach detecting the presence of the first and second authorized parties. However, McDowell teaches a system which includes detecting the presence of the first and second authorized parties (see paragraphs 0049; McDowell discloses a

Art Unit: 2157

presence server that determines the presence determination of an Internet-based Instant Message (IM) user using a presence server).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server because this would detect the presence of a subscriber irregardless of the authentication state of the subscribers and prevent unnecessarily sending a message to a subscriber that was not present, a subscriber is an authorized party.

As per claim 5, O'Neil teaches the method as claimed in claim 4 including a software application (see column 7 lines 13-30; O'Neil discloses computing devices capable of accessing the data-centric network, accessing a network involves using a software application).

O'Neil fails to teach an instant message application. However, McDowell teaches an instant message application (see paragraph 0034; McDowell discloses an instant message module, a module can be an application).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to access the network via an instant message application because this would facilitate instantly detecting the presence of a subscriber.

As per claim 6, O'Neil teaches the method as claimed in claim 1 wherein a Web service and a plurality of different communication devices associated with the first and second authorized parties (see column 13 lines 8-39, fig. 1; O'Neil discloses a web

Art Unit: 2157

server and communication devices of each subscriber such as pagers, telephone, voicemail, and computer capable of receiving email).

O'Neil fails to teach detecting the presence of the authorized parties by the Web service. However, McDowell teaches a system which includes presence determination of a device using a presence server (see paragraphs 0045, 0048, 0050-0051, 0056; McDowell discloses a presence server that determines whether a device is on or off).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server because this would detect the presence of any number of subscribers using different devices and prevent unnecessarily sending a message to a device or subscriber when it would not be received, a subscriber is an authorized party.

As per claim 7, O'Neil teaches the method as claimed in claim 1 wherein the first and second authorized parties might log in to a particular device and software application (see column 8 lines 22-30; O'Neil discloses the possibility of employing authentication for subscribers; authentication involves logging in to a device or software application).

O'Neil fails to teach detecting the presence of the first and second authorized parties. However, McDowell teaches a system which includes detecting the presence of the first and second authorized parties (see paragraphs 0049; McDowell discloses a presence server that determines the presence determination of an Internet-based Instant Message (IM) user using a presence server).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server because this would detect the presence of a subscriber irregardless of the authentication state of the subscribers and prevent unnecessarily sending a message to a subscriber that was not present, a subscriber is an authorized party.

As per claim 8, O'Neil teaches the method of claim 7 including a software application (see column 7 lines 13-30; O'Neil discloses computing devices capable of accessing the data-centric network, accessing a network involves using a software application).

O'Neil fails to teach an instant message application. However, McDowell teaches an instant message application (see paragraph 0034; McDowell discloses an instant message module, a module can be an application).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to access the network via an instant message application because this would facilitate instantly detecting the presence of a subscriber.

As per claim 9, O'Neil teaches the method of claim 1 further comprising formatting a presentation of the message for the active communication device (see column 6 lines 50-65; O'Neil discloses formatting messages before being forwarded to a communications device).

As per claim 10, O'Neil teaches the method as claimed in claim 1 wherein a Web service and a plurality of different devices and software applications (see column 7 lines

Art Unit: 2157

13-30, column 8 lines 22-30; O'Neil discloses a web service and computing devices capable of accessing the data-centric network, accessing a network involves using a software application).

O'Neil fails to teach the presence information provided by the web service.

However, McDowell teaches a system which includes presence determination of a device and software application using a presence server (see paragraphs 0045, 0050; McDowell discloses a presence server that determines whether a device is on or off and the presence of an instant message buddy list, an instant message application is a software application).

It would have been obvious to one of ordinary skill in the art to modify O'Neil in view of McDowell to add the presence server component to the web server in order to detect the presence of a device or software application before sending a message to it because this would prevent unnecessarily sending a message to a device or subscriber that is not present, a subscriber is an authorized party.

As per claim 11, O'Neil teaches a system comprising:

a computer system to receive a message which is to be routed to one of a plurality of authorized parties comprising a first authorized party and a second authorized party, to poll a Web service at least once, the Web service to detect for a presence of the first authorized party, to determine that the presence of the first authorized party remains undetected over an allocated time interval, after said determining to poll the Web service at least once, the Web service to detect for a presence of the second authorized party, and to route the message to an active communication device associated with the

Art Unit: 2157

second authorized party in response to detecting the presence of the second authorized party (see column 8 lines 1-21, column 11 lines 8-29, fig. 1; O'Neil discloses routing incoming messages to more than one subscriber, periodically checking the queue for outgoing messages stored in the web server, more than one subscriber, and routing incoming messages to more than one subscriber; a subscriber is an authorized party, and checking the queue involves polling the queue in the web server).

O'Neil fails to teach:

- c. detect presence of a first and second authorized party
- d. determining that the presence of the first authorized party remains undetected over an allocated time interval;

However, McDowell teaches a system which includes determining the presence of a device using a presence server (see abstract, fig. 1). McDowell teaches pulling presence information of a party from the presence server, after not detecting the presence then polling the presence server again to detect the presence of another party and then routing the message to the second party (see paragraphs 0045, 0048, 0050-0051, 0056; McDowell discloses a presence server that determines whether a device is on or off before sending a message to the device, it is obvious a device must be associated with a party and present in order to receive messages, pulling information involves polling a device first).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server in order to detect after a specified period of time whether or not a device

Art Unit: 2157

and subscribers are present before sending a message because this would prevent unnecessarily sending a message to a device or subscriber when it would not be received, a subscriber is an authorized party.

As per claim 12, O'Neil teaches the system as claimed in claim 11, wherein the message comprises a request, the first authorized party is a main approver of the request, and the second authorized party is a secondary approver of the request (see column 8 lines 1-21, column 11 lines 8-29; O'Neil discloses message requests which are routed from the web server to other servers to be send to subscribers, it is obvious that a single message can be sent to more than one subscriber).

As per claim 13, the system as claimed in claim 11 wherein a Web service and a plurality of different communication devices associated with the first and second authorized parties (see column 13 lines 8-39, fig. 1; O'Neil discloses a web server and communication devices of each subscriber such as pagers, telephone, voicemail, and computer capable of receiving email).

O'Neil fails to teach detecting the presence of the authorized parties by the Web service. However, McDowell teaches a system which includes presence determination of a device using a presence server (see paragraphs 0045, 0048, 0050-0051, 0056; McDowell discloses a presence server that determines whether a device is on or off).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server because this would detect the presence of any number of subscribers

Art Unit: 2157

using different devices and prevent unnecessarily sending a message to a device or subscriber when it would not be received, a subscriber is an authorized party.

As per claim 14, the system as claimed in claim 11 wherein the first and second authorized parties might log in to a particular device and software application (see column 8 lines 22-30; O'Neil discloses the possibility of employing authentication for subscribers; authentication involves logging in to a device or software application).

O'Neil fails to teach detecting the presence of the first and second authorized parties. However, McDowell teaches a system which includes detecting the presence of the first and second authorized parties (see paragraphs 0049; McDowell discloses a presence server that determines the presence determination of an Internet-based Instant Message (IM) user using a presence server).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server because this would detect the presence of a subscriber irregardless of the authentication state of the subscribers and prevent unnecessarily sending a message to a subscriber that was not present, a subscriber is an authorized party.

As per claim 15, O'Neil teaches the system of claim 14 including a software application (see column 7 lines 13-30; O'Neil discloses computing devices capable of accessing the data-centric network, accessing a network involves using a software application).

O'Neil fails to teach an instant message application. However, McDowell teaches an instant message application (see paragraph 0034; McDowell discloses an instant message module, a module can be an application).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to access the network via an instant message application because this would facilitate instantly detecting the presence of a subscriber.

As per claim 16, O'Neil teaches the system as claimed in claim 11 wherein a Web service and a plurality of different communication devices associated with the first and second authorized parties (see column 13 lines 8-39, fig. 1; O'Neil discloses a web server and communication devices of each subscriber such as pagers, telephone, voicemail, and computer capable of receiving email).

O'Neil fails to teach detecting the presence of the authorized parties by the Web service. However, McDowell teaches a system which includes presence determination of a device using a presence server (see paragraphs 0045, 0048, 0050-0051, 0056; McDowell discloses a presence server that determines whether a device is on or off).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server because this would detect the presence of any number of subscribers using different devices and prevent unnecessarily sending a message to a device or subscriber when it would not be received, a subscriber is an authorized party.

As per claim 17, O'Neil teaches the system as claimed in claim 11 wherein the first and second authorized parties might log in to a particular device and software application (see column 8 lines 22-30; O'Neil discloses the possibility of employing authentication for subscribers; authentication involves logging in to a device or software application).

O'Neil fails to teach detecting the presence of the first and second authorized parties. However, McDowell teaches a system which includes detecting the presence of the first and second authorized parties (see paragraphs 0049; McDowell discloses a presence server that determines the presence determination of an Internet-based Instant Message (IM) user using a presence server).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server because this would detect the presence of a subscriber irregardless of the authentication state of the subscribers and prevent unnecessarily sending a message to a subscriber that was not present, a subscriber is an authorized party.

As per claim 18, O'Neil teaches the system as claimed in claim 14 including a software application (see column 7 lines 13-30; O'Neil discloses computing devices capable of accessing the data-centric network, accessing a network involves using a software application).

O'Neil fails to teach an instant message application. However, McDowell teaches an instant message application (see paragraph 0034; McDowell discloses an instant message module, a module can be an application).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to access the network via an instant message application because this would facilitate instantly detecting the presence of a subscriber.

As per claim 19, O'Neil teaches the system as claimed in claim 11 wherein the computer system is further to format a presentation of the message for the active communication device (see column 6 lines 50-65; O'Neil discloses formatting messages before being forwarded to a communications device).

As per claim 20, O'Neil teaches the system as claimed in claim 11 wherein a Web service and a plurality of different devices and software applications (see column 7 lines 13-30, column 8 lines 22-30; O'Neil discloses a web service and computing devices capable of accessing the data-centric network, accessing a network involves using a software application).

O'Neil fails to teach the presence information provided by the web service. However, McDowell teaches a system which includes presence determination of a device and software application using a presence server (see paragraphs 0045, 0050; McDowell discloses a presence server that determines whether a device is on or off and the presence of an instant message buddy list, an instant message application is a software application).

It would have been obvious to one of ordinary skill in the art to modify O'Neil in view of McDowell to add the presence server component to the web server in order to detect the presence of a device or software application before sending a message to it

Art Unit: 2157

because this would prevent unnecessarily sending a message to a device or subscriber that is not present, a subscriber is an authorized party.

As per claim 21, O'Neil teaches a computer-readable medium having computer-readable program code to direct a computer to perform acts of:

receiving a message which is to be routed using a web server to one of a plurality of authorized parties comprising a first authorized party and a second authorized party (see column 8 lines 1-21, column 11 lines 8-29, fig. 1; O'Neil discloses routing incoming messages to more than one subscriber, a subscriber is an authorized party).

polling the Web service at least once (see column 11 lines 22-29; O'Neil discloses periodically checking the queue for outgoing messages stored in the web server, checking the queue involves polling the queue in the web server);

a first and second authorized party (see column 8 lines 1-21; O'Neil discloses more than one subscriber, a subscriber is an authorized party); and

routing the message to an active communication device associated with the second authorized party (see column 8 lines 1-21; O'Neil discloses routing incoming messages to more than one subscriber, a subscriber is an authorized party).

O'Neil fails to teach:

detect presence of a first and second authorized party

determining that the presence of the first authorized party remains undetected over an allocated time interval;

However, McDowell teaches a system which includes determining the presence of a device using a presence server (see abstract, fig. 1). McDowell teaches pulling presence information of a party from the presence server, after not detecting the presence then polling the presence server again to detect the presence of another party and then routing the message to the second party (see paragraphs 0045, 0048, 0050-0051, 0056; McDowell discloses a presence server that determines whether a device is on or off before sending a message to the device, it is obvious a device must be associated with a party and present in order to receive messages, pulling information involves polling a device first).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server in order to detect after a specified period of time whether or not a device and subscribers are present before sending a message because this would prevent unnecessarily sending a message to a device or subscriber when it would not be received, a subscriber is an authorized party.

As per claim 22, O'Neil teaches the computer-readable medium as claimed in claim 21 wherein the message comprises a request, the first authorized party is a main approver of the request, and the second authorized party is a secondary approver of the request (see column 8 lines 1-21, column 11 lines 8-29; O'Neil discloses message requests which are routed from the web server to other servers to be send to subscribers, it is obvious that a single message can be sent to more than one subscriber).

As per claim 23, O'Neil teaches the computer-readable medium as claimed in claim 21 wherein a Web service and a plurality of different communication devices associated with the first and second authorized parties (see column 13 lines 8-39, fig. 1; O'Neil discloses a web server and communication devices of each subscriber such as pagers, telephone, voicemail, and computer capable of receiving email).

O'Neil fails to teach detecting the presence of the authorized parties by the Web service. However, McDowell teaches a system which includes presence determination of a device using a presence server (see paragraphs 0045, 0048, 0050-0051, 0056; McDowell discloses a presence server that determines whether a device is on or off).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server because this would detect the presence of any number of subscribers using different devices and prevent unnecessarily sending a message to a device or subscriber when it would not be received, a subscriber is an authorized party.

As per claim 24, the computer-readable medium as claimed in claim 21 wherein the first and second authorized parties might log in to a particular device and software application (see column 8 lines 22-30; O'Neil discloses the possibility of employing authentication for subscribers; authentication involves logging in to a device or software application).

O'Neil fails to teach detecting the presence of the first and second authorized parties. However, McDowell teaches a system which includes detecting the presence of the first and second authorized parties (see paragraphs 0049; McDowell discloses a

Art Unit: 2157

presence server that determines the presence determination of an Internet-based Instant Message (IM) user using a presence server).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server because this would detect the presence of a subscriber irregardless of the authentication state of the subscribers and prevent unnecessarily sending a message to a subscriber that was not present, a subscriber is an authorized party.

As per claim 25, O'Neil teaches the computer-readable medium of claim 24 including a software application (see column 7 lines 13-30; O'Neil discloses computing devices capable of accessing the data-centric network, accessing a network involves using a software application).

O'Neil fails to teach an instant message application. However, McDowell teaches an instant message application (see paragraph 0034; McDowell discloses an instant message module, a module can be an application).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to access the network via an instant message application because this would facilitate instantly detecting the presence of a subscriber.

As per claim 26, O'Neil teaches the computer-readable medium as claimed in claim 21 wherein a Web service and a plurality of different communication devices associated with the first and second authorized parties (see column 13 lines 8-39, fig. 1;

Art Unit: 2157

O'Neil discloses a web server and communication devices of each subscriber such as pagers, telephone, voicemail, and computer capable of receiving email).

O'Neil fails to teach detecting the presence of the authorized parties by the Web service. However, McDowell teaches a system which includes presence determination of a device using a presence server (see paragraphs 0045, 0048, 0050-0051, 0056; McDowell discloses a presence server that determines whether a device is on or off).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server because this would detect the presence of any number of subscribers using different devices and prevent unnecessarily sending a message to a device or subscriber when it would not be received, a subscriber is an authorized party.

As per claim 27, O'Neil teaches the computer-readable medium as claimed in claim 21 wherein the first and second authorized parties might log in to a particular device and software application (see column 8 lines 22-30; O'Neil discloses the possibility of employing authentication for subscribers; authentication involves logging in to a device or software application).

O'Neil fails to teach detecting the presence of the first and second authorized parties. However, McDowell teaches a system which includes detecting the presence of the first and second authorized parties (see paragraphs 0049; McDowell discloses a presence server that determines the presence determination of an Internet-based Instant Message (IM) user using a presence server).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to add the presence server component to the web server because this would detect the presence of a subscriber irregardless of the authentication state of the subscribers and prevent unnecessarily sending a message to a subscriber that was not present, a subscriber is an authorized party.

As per claim 28, O'Neil teaches the computer-readable medium of claim 24 including a software application (see column 7 lines 13-30; O'Neil discloses computing devices capable of accessing the data-centric network, accessing a network involves using a software application).

O'Neil fails to teach an instant message application. However, McDowell teaches an instant message application (see paragraph 0034; McDowell discloses an instant message module, a module can be an application).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neil in view of McDowell to access the network via an instant message application because this would facilitate instantly detecting the presence of a subscriber.

As per claim 29, O'Neil teaches the computer-readable medium as claimed in claim 21 further comprising formatting a presentation of the message for the active communication device (see column 6 lines 50-65; O'Neil discloses formatting messages before being forwarded to a communications device).

As per claim 30, the computer-readable medium as claimed in claim 21 wherein a Web service and a plurality of different devices and software applications (see column

7 lines 13-30, column 8 lines 22-30; O'Neil discloses a web service and computing devices capable of accessing the data-centric network, accessing a network involves using a software application).

O'Neil fails to teach the presence information provided by the web service. However, McDowell teaches a system which includes presence determination of a device and software application using a presence server (see paragraphs 0045, 0050; McDowell discloses a presence server that determines whether a device is on or off and the presence of an instant message buddy list, an instant message application is a software application).

It would have been obvious to one of ordinary skill in the art to modify O'Neil in view of McDowell to add the presence server component to the web server in order to detect the presence of a device or software application before sending a message to it because this would prevent unnecessarily sending a message to a device or subscriber that is not present, a subscriber is an authorized party.

Response to Arguments

4. Applicant's arguments filed June 13, 2005 have been fully considered but they are not persuasive.

In the remarks, the Applicant argues that A) Neither O'Neil or McDowell discloses at least routing a message which is to be routed to one of a plurality of authorized parties to an active communication device associated with an authorized party in response to detecting the presence of the authorized party and B) any combination of

Art Unit: 2157

O'Neil and McDowell necessarily cannot render independent claims 1, 11, and 21 or any of their dependent claims, unpatentable.

In response to A); In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

O'Neil teaches routing messages. The element lacking in O'Neil, as acknowledged by Applicant, is presence detection of an authorized party. McDowell teaches presence detection in order to send advertisements (messages) and routing the messages to a party. The elements lacking in the primary reference are clearly covered by the secondary reference. Both references are directed to the field of routing messages over a network. One would have been motivated to make the combination of O'Neil and McDowell in order to incorporate the presence detection feature taught in McDowell into the routing of messages taught by O'Neil because this would reduce unnecessary overhead network traffic.

In response to B); In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one

Art Unit: 2157

of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

In this case, O'Neil teaches message routing. O'Neil does not teach presence detection, as agreed by Applicant. However, McDowell teaches presence detection in order to send advertisements (messages) and then routing the message to the party. Thus, the combination of O'Neil and McDowell is a proper basis for the rejection of all independent and their dependent claims as one element not found in the primary reference is found in the secondary reference.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2157

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

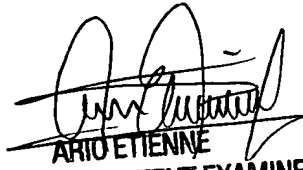
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ciara Martin whose telephone number is 571-272-7507.

The examiner can normally be reached on M-F 6:30- 4:00 with second Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CM
7/13/05


ARIO ETIENNE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100